

AUG 16 2013

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION**

JULIA C. DUDLEY, CLERK  
BY: *Julia C. Dudley*  
DEPUTY CLERK

UNITED STATES OF AMERICA ) Criminal Case No. 5:93cr00004-1  
v. )  
CLARENCE SHELDON JUPITER ) MEMORANDUM OPINION  
 ) By: Samuel G. Wilson  
 ) United States District Judge

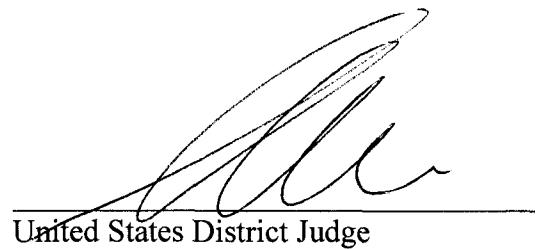
Clarence Sheldon Jupiter, a federal inmate proceeding *pro se*, filed a “motion under 18 U.S.C. § 3742(e)” (ECF No. 270), in which he argues that both trial and appellate counsel provided ineffective assistance. Inasmuch as Jupiter is challenging the validity of his federal conviction and sentence, the court construes Jupiter’s motion as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Upon review of the record, however, the court finds that the motion must be dismissed as an unauthorized, successive § 2255 motion.

Jupiter challenges his 1994 life sentence for various drug offenses. Court records indicate that Jupiter previously filed two § 2255 motions regarding the same conviction and sentence, both of which this court dismissed. See Civil Case Nos. 7:98cv16 (dismissed as untimely filed) and 7:00cv629 (dismissed as successive). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). As Jupiter has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court must dismiss his motion as successive.<sup>1</sup>

<sup>1</sup> Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion will be included with this notice or are available

For the reasons stated, the court construes Jupiter's motion as a § 2255 motion and dismisses it as successive.

ENTER: This 16<sup>th</sup> day of August, 2013.



A handwritten signature in black ink, appearing to read "J. H. C.", is written over a horizontal line. Below the line, the text "United States District Judge" is printed in a standard font.

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from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.